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Dennis Archer, JD
President-Elect
American Bar Association
740 15th Street, N.W.
Washington, DC 20005-1019

Dear Mr. Archer:

As president of the American Thoracic Society (ATS) I want to express our extreme concern with the medical criteria used in the American Bar Association policy: Asbestos Litigation Policy adopted in February 2003. The medical criteria used in the document do not reflect the current state of screening and diagnosis for asbestos-related diseases

The ATS is one of the leading organizations in the scientific and medical community regarding the diagnosis and treatment of asbestos related diseases. The American Thoracic Society (ATS) founded in 1905, is an independently incorporated, international professional and scientific society which focuses on respiratory and critical care medicine. Today, the Society has approximately 13,500 members are engaged preventing and treating respiratory disease around the globe, through research, education, patient care and advocacy.

The ATS does not have a position on the need for, merits of or construction of asbestos litigation reform legislation. As physicians who diagnose, treat and research asbestos-related conditions, we are however committed to ensuring that appropriate medical criteria is used and applied in whatever legislative proposals move forward.

The ATS has the following concerns the medical criteria listed in the ABA Asbestos Litigation Report:

Existence of Asbestosis

Significant asbestosis can be present with an x-ray profusion less than 1/0 or even with a normal x-ray. Impairment from this asbestosis can be manifest by demonstrated decrease in diffusing capacity (DL) (with or without a decrease in forced vital capacity, FVC) or abnormality in ventilatory and gas exchange parameters on respiratory exercise testing. Diffusing capacity is available at any lung center, is standardized¹ and is known to be abnormal in interstitial lung disease (ILD) even when FVC and x-ray are normal. Perversely, if DL is significantly decreased without a decrease in FVC, the x-ray standard requirement of the ABA standard (2/1) is greater than what is in common medical practice.

1) American Thoracic Society. Single breath carbon monoxide diffusing capacity (transfer factor). Recommendations for a Standard Technique. Am. Rev. Resp. Dis. 1987; 136:1289.

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Impairment from asbestos can be manifest by the FVC when the x-ray is normal; such impairment is not admissible under the ABA proposal.

Asbestosis can be detected radiographically by CT scan when the x-ray is normal. CT scan is universally available in the U. S. and used by all pulmonologists in a fuller assessment of ILD.

Pleural Scarring

The section on impairment from asbestos-related pleural scarring is vastly insufficient. Diffuse pleural scarring can be associated with greatly diminished FVC regardless of the extent or thickness of the scarring or its bilaterality². It is therefore exclusionary to insist on "bilateral" diffuse pleural thickening of at least B/2.

Analysis of large numbers of patients with asbestos-related pleural scarring has shown that extensive circumscribed pleural scarring is associated with a significant decrement in FVC sufficient to bring about impairment in individual patients.

The ATS will soon be publishing a revised version of: The Diagnosis of Nonmalignant Diseases related to Asbestos. The revised document will provide the most recent data and professional recommendations on the definitions, diagnosis and treatment of nonmalignant asbestos-related diseases. The ATS strongly encourages the American Bar Association and other policy makers to consider this forthcoming document when establishing medical criteria in asbestos-related legislation.

Sincerely,



Thomas R. Martin, M.D.
President,
American Thoracic Society

Cc: Members of the House Judiciary Committee
Members of the Senate Judiciary Committee

2) Lillis R, Miller A, Godbold J et al. Pulmonary function and pleural fibrosis: quantitative relationships with an integrative index of pleural abnormalities. Am J Industr. Med 1991; 20:145.

Weill Comparison to ATSDR and CARD

	CLIENT NAME	WEILL 550	WEILL 123	CHX DATE	IF	PL	PQ	PL TH	ATSDR	CARD PG	CHX DATE	IF	PL	PQ	PL TH	CARD DR	CARD PG	CHX DATE	IF	PL	PQ	PL TH
1)	Bail, Irving	026		7/31/00	no	no	no	no	JEL	7	7/31/00	no	no	no	no	Whitehouse	8	7/31/00, 3/14/01	no	yes	no	yes
									KR	8	7/31/00	no	no	no	no							
2)	Benefield, Gayla	035		9/6/00	no	no	no	no	JEL	2	9/6/00	no	yes	yes	yes	Whitehouse	12	5/10/01	no	yes	yes	yes
									??	3	9/6/00	no	no	no	no							
									JEP	4	9/6/00	no	no	no	no							
3)	Bock, Fred	043		6/22/04	no	no	no	no	JEL	2	9/6/01	no	yes	yes	yes	Black	13	9/6/01	no	yes	yes	yes
									KR	3	9/6/01	no	no	no	no							
									JEP	4	9/6/01	no	yes	yes	yes							
4)	Cannon, Larry	080		7/5/01	no	yes	yes	no	JEL	2	8/4/00	no	yes	yes	yes	Whitehouse	16	7/5/01	no	yes	yes	no
									KR	3	8/4/00	no	yes	yes	yes							
5)	Chase, Fred	098		8/1/02	no	no	no	no	JEL	2	9/19/00	no	no	no	no	Whitehouse	14	9/19/00	no	yes	no	yes
									KR	3	9/19/00	no	no	no	no							
6)	Collier, Paul	109		9/11/01	no	no	no	no	JEL	2	8/6/00	no	yes	yes	yes	Black	10	1999/2000	yes	yes	yes	no
									KR	3	8/6/00	no	yes	yes	yes							
7)	Creighton, Thomas	119		7/19/00	no	yes	yes	no	JEL	2	7/19/00	no	yes	yes	yes	Black	7	7/19/00	no	yes	yes	no
									KR	3	7/19/00	no	yes	yes	yes							
8)	Cummings, Larry	124		8/6/00	no	no	no	no	JEL	3	8/6/00	yes	yes	yes	yes	Black	13	6/13/01	yes	yes	no	no
									KR	4	8/6/00	no	no	no	no							
									JEP	5	8/6/00	no	no	no	no							
9)	DeShazer, Dan	134		6/11/03	no	no	no	no	JEL	2	8/1/00	no	yes	yes	yes	Whitehouse	13	6/11/01	yes	yes	yes	yes
									KR	3	8/1/00	no	yes	yes	yes							
10)	Dickerman, Lois	140		10/12/00	no	no	no	no	JEL	1	10/12/00	yes	yes	yes	yes	Black	15	10/12/00	no	yes	yes	no
									KR	2	10/12/00	no	no	no	no							
									JEP	3	10/12/00	no	no	no	no							
11)	Erickson, Richard	164		3/22/04	no	no	no	no	JEL	2	7/14/00	no	yes	yes	yes	Black	25	9/16/02	no	yes	yes	no
									KR	3	7/14/00	no	no	no	no							
									JEP	4	7/14/00	no	yes	yes	yes							
12)	Erickson, Duane	166		8/4/00	no	no	no	no	JEL	2	8/4/00	no	yes	yes	yes	Black	38	6/8/04	yes	no	no	no
									KR	3	8/4/00	no	no	no	no							
									JEP	4	8/4/00	no	no	no	no							
13)	Graves, Russell	205		8/8/00	no	no	no	no	JEL	3	8/8/00	no	yes	yes	yes	Black	11	8/8/00	no	yes	yes	yes
									KR	4	8/8/00	no	yes	yes	yes							

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Weill Comparison to ATSDR and CARD

14)	Greenup, Joyce	207		9/5/00	no	no	no	no	JEL	8	7/30/00	no	yes	yes	yes	Whitehouse	17	7/30/00	no	yes	no	yes
									KR	9	7/30/00	no	yes	yes	yes							
15)	Gustafson, Ken	209		obscured					JEL	2	10/8/00	no	yes	yes	yes	Black	8	10/8/00	no	yes	yes	no
									KR	3	10/8/00	no	no	no	no							
									JEP	4	10/8/00	no	no	no	no							
16)	Hammer, Mary	219		10/7/04	no	no	no	no	JEP	2	8/16/00	no	yes	yes	yes	Black	12	8/16/00	no	yes	no	yes
									KR	3	8/16/00	yes	no	no	no							
									JEL	4	8/16/00	no	yes	yes	yes							
17)	Hammons, Darlene	222		4/16/01	no	no	no	no	JEL	2	4/6/01	no	yes	yes	yes	Black	15	8/14/02	no	yes	yes	no
									KR	3	4/6/01	no	no	no	no							
									JEP	4	4/16/01	no	yes	yes	yes							
18)	Herreid, Dale	226		9/5/00	no	no	no	no	JEL	2	9/5/00	yes	no	no	no	Black	46	4/21/04	yes	no	no	no
									KR	3	9/5/00	no	no	no	no							
									JEP	4	9/5/00	no	no	no	no							
19)	Hobbs, William	235		7/22/00	no	no	no	no	JEL	2	7/22/00	no	yes	yes	yes	Black	14	7/22/00	no	yes	no	yes
									KR	3	7/22/00	no	yes	yes	yes							
20)	Hoetzel, Leland	236		7/20/00	no	no	no	no	JEL	3	7/20/00	no	yes	yes	yes	Black	7	3/29/01	no	yes	no	yes
									KR	4	7/20/00	no	yes	yes	yes							
21)	Hopkins, Louise	239		5/13/04	yes	yes	yes	no	JEL	13b	8/1/01	yes	no	no	no	Whitehouse	12	9/17/01	yes	no	no	no
									KR	13c	8/1/01	no	no	no	no							
									JEP	13d	8/1/01	yes	no	no	no							
22)	Jantz, Dale	249		7/25/00	no	no	no	no	JEL	4	7/25/00	no	yes	yes	yes	Black	20	7/25/00	no	yes	no	yes
									KR	5	7/25/00	no	no	no	no							
									JEP	6	7/25/00	no	no	no	no							
23)	Jellesed, Joan	251		7/31/00	no	no	no	no	JEL	2	7/31/00	no	no	no	no	Black	16	7/31/00	no	yes	no	yes
									KR	3	7/31/00	no	yes	yes	yes							
									JEP	4	7/31/00	no	yes	yes	yes							
24)	Johnson, Raymond	260		3/19/01	no	yes	yes	no	JEL	3	7/21/00	no	yes	yes	yes	Whitehouse	7	3/19/01	yes	yes	no	yes
									KR	4	7/21/00	no	yes	yes	yes							
25)	Kenefly, Gerald	281		8/2/00	no	no	no	no	JEL	2	8/2/00	no	yes	yes	yes	Black	12	8/2/00	no	yes	yes	yes
									KR	3	8/2/00	no	yes	yes	yes							
26)	Kessel, Duane	284		7/27/04	no	no	no	no	JEL	2	8/22/00	no	yes	yes	yes	Black	11	8/22/00	no	yes	no	yes
									KR	3	8/22/00	no	no	no	no							
									JEP	4	8/22/00	no	yes	yes	yes							

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Well Comparison to ATSDR and CARD																					
27)	Knudson, John	288	8/8/00	no	no	no	no	JEL	10	8/8/00	no	no	no	no	Black	15	9/12/01	no	yes	yes	no
28)	Larson, Joan	293	7/20/00	no	no	no	no	JEL	5	7/18/00	no	no	no	no							
			7/19/??	no	no	no	no	KR	6	7/18/00	no	yes	yes	yes	Whitehouse	11	7/7/00	yes	yes	no	yes
29)	Lindsay, LaMar	298	7/16/02	no	yes	yes	no	JEL	4	7/12/00	no	yes	yes	yes	Black	7	7/7/00	no	yes	yes	no
								KR	5	7/12/00	no	yes	yes	yes							
								JEP	6	7/15/00	no	yes	yes	yes							
30)	Martin, Charles	310	5/19/05	no	no	no	no	VH	7	unreadable											
								VH	8	unreadable					Whitehouse	23	6/29/05	no	yes	no	yes
31)	Martineau, John	311	8/12/01	no	no	no	no	JEL	5	8/12/01	no	yes	yes	yes	Black	18	8/12/01	no	yes	yes	no
								KR	6	8/12/01	no	no	no	no							
								JEP	7	8/12/01	no	no	no	no							
32)	Maxwell, Betty	315	11/18/04	no	no	no	no	JEL	130	9/18/00	no	no	no	no	Whitehouse	145	5/1/01	yes	no	no	no
								KR	131	9/18/00	no	no	no	no							
33)	Maynard, Dolly	317	8/4/00	no	no	no	no	JEL	2	8/4/00	no	yes	yes	yes	Black	13	8/4/00	no	yes	yes	no
								KR	3	8/4/00	no	yes	yes	yes							
34)	Maynard, Ray	320	8/4/00	no	no	no	no	JEL	3	8/4/00	no	no	no	no	Black	12	9/13/01	no	yes	yes	no
			7/20/00	no	no	no	no	KR	4	8/4/00	no	no	no	no							
35)	McCollom, Bob	325	9/8/00	no	no	no	no	JEL	1	9/12/00	no	yes	yes	yes	Whitehouse	8	4/30/01	no	yes	yes	yes
								KR	2	9/12/00	no	yes	yes	yes							
36)	Miller, William	342	6/1/01	no	no	no	no	JEL	2	7/5/00	no	yes	yes	yes	Black	5	7/5/00	no	yes	no	yes
			7/5/00	no	no	no	no	KR	3	7/5/00	no	yes	yes	yes							
37)	Montgomery, Yolanda	354	11/18/03	no	no	no	no	JEL	2	8/28/00	no	yes	yes	yes	Black	12	8/28/00	no	yes	no	no
								KR	3	8/28/00	no	no	no	no							
								JEP	4	8/28/00	no	yes	yes	yes							
38)	Morey, Jim	355	7/19/00	no	no	no	no	KR	2	7/19/00	no	yes	yes	yes	Black	10	2/19/01	no	yes	yes	no
								JEL	3	7/19/00	no	yes	yes	yes							
39)	Morton, Carol	356	4/17/03	no	no	no	no	JEL	3	7/12/00	no	yes	yes	yes	Black	9	7/12/00	no	yes	yes	no
								KR	4	7/12/00	no	yes	yes	yes							
40)	Norman, Michael	380	7/24/99	no	no	no	no	JEL	6	8/13/00	no	no	no	no	Whitehouse	11	5/9/01	no	yes	no	no
			6/2/04	no	no	no	no	KR	7	8/13/00	yes	no	no	no							

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